

MONTGOMERY COUNTY, STATE OF MARYLAND

Dennis Meldrum
Stephen Kastner
2112 Bonnywood Lane, #301
Silver Spring, MD 20902

Complainants

vs.

Americana Finmark Condominium
9900 Georgia Avenue
Silver Spring, MD 20902

Respondent

Panel Chair Memorandum By: John F. McCabe, Jr. :

:
: COMMISSION ON COMMON
: OWNERSHIP COMMUNITIES
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:
: Case No. 690-0
:
: Panel Hearing Date: Dismissed prior
: to hearing
: Decision Issued: May 4, 2005

MEMORANDUM DECISION AND ORDER

The above entitled case came before the Hearing Panel on Respondent's Motion to Dismiss and Complainants' response. The duly appointed Hearing Panel considered the motion and response and finds, determines and orders as follows:

1. The Complaint asks for the following relief:

"Cease unlawful harassment, give proper legal notice of hearings and conduct such as stipulated by County code. Overturn Board of Director's questionable issuance of a daily fine and threats of legal action. Enforce Bylaws and Rules and Regulations uniformly and consistently. Cease discriminatory practices against residents."

2. The fines complained of in the amount of \$252.00 and a deposit in the amount of \$25.00 have been returned by two checks dated April 6, 2005. The Complainants have moved from the community. There is no further relief which the Panel can grant to the Complainants and therefore the Panel finds that the Complaint is moot.

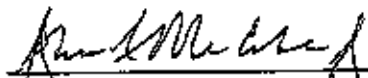
3. The Panel advises the Respondent that it must follow its governing documents and applicable law, but it is not necessary to conduct a hearing to state this.

4. While the Complainants in later correspondence have asked for attorney's fees and produced statements of their attorney, as seen from the above request for relief, the original Complaint does not ask for attorney's fees. The Maryland Condominium Act provides for the award of attorney's fees to the "prevailing party in an action." Since this matter is moot, there is no prevailing party.

Based upon the foregoing, the Panel concludes that there is no further relief which the Panel can provide to the Complainants, that this matter is moot, and therefore the Complaint is dismissed, on the condition that the above two payments referenced in Paragraph 2 are in fact transmitted to the Complainants.

Panel Members Sarah M. Havlicek and Jeffrey R. Williams concur in the above decision.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland within thirty (30) days of the date this decision is issued pursuant to the Maryland Rules of Procedure governing administrative appeal.



John F. McCabe, Jr., Panel Chair

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Panel: John F. McCabe, Jr., Jeffrey Williams, Sarah Havlicek

ORDER

The Motion for Reconsideration is denied. The decision of the panel is unanimous.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland within thirty (30) days of the date this decision is issued pursuant to the Maryland Rules of Procedure governing administrative appeals.



John F. McCabe, Jr., Panel Chair